

Agency Legislative Proposal - 2016 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc): DMV01Agency.doc

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Department of Motor Vehicles

Liaison: Millie Torres-Ferguson

Phone: 860 263-5032

E-mail: millie.torres@ct.gov

Lead agency division requesting this proposal: Legal Services Division

Agency Analyst/Drafter of Proposal: Sharon Geanuracos; sharon.geanuracos@ct.gov ; (860) 263-5130

Title of Proposal: An Act Revising Motor Vehicle Laws

Statutory Reference: Various (see Summary)

Proposal Summary:

Sec. 1. (NEW) Establishes state penalties for violations of federal hazardous materials regulations (HMRs) related to commercial transportation on the roadway. Replaces §29-341 (repealed January 1, 2015) which contained penalties for the violation of any provision in the fire code, which was where HMRs were incorporated.

Sec. 2. 14-44a-(Technical) Section states now that a violation will carry the same penalty as in 14-36a(f). The penalties in 14-36a were moved to subsection (g). This simply makes a conforming change to 14-44a.

Sec. 3. 14-52a-Requires that a prospective dealer obtain its own criminal background check through State Police SPRC. A dealer license is subject to denial or non-renewal if a dealer principal has certain criminal convictions on his or her record.

Sec. 4. 14-54-Continues to require all new dealer applicants to have sign-off from zoning officials, but removes differentiation of zoning official based upon the size of the town. Removes a requirement that a dealer's license have sign-off from the chief of police and adds a requirement that the application be approved by the local building officials and the local fire marshal. This eliminates rigid and outdated procedures in favor of practical safety-oriented ones.

Sec. 5. 14-61- Changes the requirement for being an online dealer to sale of 7 vehicles per month (from 10) and removes language that says dealers may transact business in person at a Branch. The new language includes an exception process for hardship. This also authorizes a dealer association to act as a "hub" to complete on-line registrations for off-line dealers for a reasonable fee. This will increase the use of the dealer on-line system, and lessen dealer traffic in the Branch, thereby streamlining DMV processes.



Sec. 6. 14-227b(g)-Makes a change to the administrative per se statute to permit the per se hearing advocate to request a hearing continuance. As currently written, only the defense may request a continuance of the hearing. Since hearing officers routinely grant continuances requested by the hearing advocates, this will simplify a process that is already occurring.

Sec. 7. 14-227b(j)-(Technical) Makes a conforming technical change to language that appears in the same section as language that was previously amended.

Sec. 8. 14-227k-Makes the penalties for failure to comply with an IID requirement or tampering with an IID the same regardless of the underlying statutory provision that mandates use of the IID. This conforming change should have been made when the IID law was expanded during the 2014 session.

Sec. 9. 14-275c-Eliminates the requirement for a student transportation vehicle operator over age 70 to have a physical exam twice a year; Amendment requires a physical exam at least annually or more frequently if so determined by a certified medical provider.

Sec. 10. 17a-696-Prevents CDL and CDIP holders, as well as CMV operators, from participating in the diversion program for persons with drug and alcohol dependency when they are arrested for DUI, manslaughter 2nd with a motor vehicle or assault 2nd with a motor vehicle.

Sec. 11. 53a-3(9)-Adds MV inspectors to definition of “peace officer.”

Sec. 12. 53a-217b-Exempts MV inspectors from the prohibitions applicable to carrying weapons on school property. Inspectors are sworn police officers who are required to carry firearms when they are working. Because DMV regulates school transportation, these Inspectors have a need to be on school property during working hours.

PROPOSAL BACKGROUND

◇ Reason for Proposal

◇ Origin of Proposal

☒ **New Proposal**

☒ **Resubmission**

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?*
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) What was the last action taken during the past legislative session?*

Sections 11 and 12 were resubmitted from last session. Section 11 was approved by Administration, but section 12 was not. Section 11 became SB 930 which was not voted out of the Transportation Committee after the public hearing. A similar bill, HB 6319, was introduced by Rep. Carter and referred to the Committee on Public Safety and Security, but did not move forward.



PROPOSAL IMPACT

◇ AGENCIES AFFECTED *(please list for each affected agency)*

Agency Name: **Section 1-** This proposal was discussed with DAS and there are no concerns.
Section 3- We have cleared this proposal with DESPP; they are not concerned about the volume this proposal generates. We made some adjustments to the language at DESPP's recommendation to make it clear that we are asking for a state check only based upon name and date of birth; **Section 10-** This proposal was discussed with DMHAS and Judicial, and neither agency is opposed. This proposal is also supported by the Office of the Chief State's Attorney who is offering a similar but expanded proposal. DOT was brought into discussions because they are the recipient of the highway funding.

Agency Contact (name, title, phone): **DAS:** Choquette, Erin Erin.Choquette@ct.gov Tulloch-Reid, Terrence Terrence.Reid@ct.gov; **DESPP:** Scott DeVico; **DMHAS:** DelBianco, Doreen Doreen.DelBianco@ct.gov; Meckel, Loel W Loel.Meckel@ct.gov; **Judicial:** Ment, Stephen Stephen.Ment@jud.ct.gov; Berardino, Matthew Matthew.Berardino@jud.ct.gov; **OCSA:** Schwartz, Robin Robin.Schwartz@ct.gov; **DOT:** Sucato, Pamela P Pamela.Sucato@ct.gov; Strand, CJ Carl.Strand@ct.gov.

Date Contacted: Sec. 1- Discussions occurred in June-July of 2015 and again on October 26, 2015. Sec. 3- Discussions occurred in December 2015. Sec. 10- Discussions commenced on October 20, 2015.

Neutral

Approve of Proposal ☒ YES ☐ NO ☐ Talks Ongoing

Summary of Affected Agency's Comments

No agencies contacted opposed DMV's proposals or expressed any concerns regarding the effect on their respective agencies.

Will there need to be further negotiation? ☐ YES ☒ NO

◇ FISCAL IMPACT *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal *(please include any municipal mandate that can be found within legislation)*

N/A

State

Sec. 1 will have an impact due to the addition of monetary penalties for infractions and misdemeanors. However, these tickets had been written in the past under a section that was repealed on January 1,



2015, and they are issued very infrequently. It is predicted that any gain will be negligible.

Sec. 3 will result in a small gain to DESPP (\$20,000-\$25,000) for fees resulting from processing applications for a background check based upon name and date of birth.

Federal

[Click here to enter text.](#)

Additional notes on fiscal impact

[Click here to enter text.](#)

◇ POLICY and PROGRAMMATIC IMPACTS *(Please specify the proposal section associated with the impact)*

[Click here to enter text.](#)

Insert fully drafted bill here

Sec. 1. (NEW)

(a) A person who engages in interstate or intrastate commerce on the highways of this state and transports hazardous materials as defined in 49 CFR section 171.8 shall comply with the hazardous materials regulations set forth in 49 CFR Parts 105 to 173, inclusive, and Parts 177 to 180, inclusive.

(b) A person identified in subsection (a) of this section who violates any of the applicable requirements imposed in the following provisions of title 49 of the Code of Federal Regulations, except for those provisions specified in subsection (c) of this section, shall have committed an infraction: (1) Section 107.620; (2) Part 171, Subpart A; (3) Part 172, Subparts A to I, inclusive; (4) Part 173, Subparts A to G, inclusive; (5) Part 177, Subparts A to E, inclusive; (6) Part 178, Subparts A to S, inclusive; (7) Part 180, Subparts A to G, inclusive.

(c) A person identified in subsection (a) of this section who violates any of the following provisions of title 49 of the Code of Federal Regulations shall, for a first offense, be guilty of a Class D misdemeanor, and for a second and subsequent offense, be guilty of a Class A misdemeanor: (1) Subsection (a) of section 172.505; (2) Subsection (a) of section 172.507; (3) Subsection (b) of section 173.24; (4) Section 177.835.

(d) Enforcement of this section shall be carried out only by a motor vehicle inspector or a state or municipal police officer who (1) has received training in accordance with section 14-163c-9 of the Regulations of Connecticut State Agencies, (2) has inspection authority as defined in such regulation and (3) has received specialized hazardous materials training through the Federal Motor Carrier Safety Administration.



Sec. 2. Subsection (c) of section 14-44a of the general statutes is repealed, and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(c) Any person who violates the provisions of subsection (a) of this section shall operate a motor vehicle in violation of the classification of the license issued to [him] such person, and shall be subject to the penalties provided in subsection [(f)] (g) of section 14-36a and section 14-44k.

Sec. 3. Subsection (a) of section 14-52a of the general statutes is repealed, and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) The commissioner may, after notice and hearing, refuse to grant or renew a license to a person, firm or corporation to engage in the business of selling or repairing motor vehicles pursuant to the provisions of section 14-52 if the applicant for or holder of such a license, or an officer or major stockholder if the applicant or licensee is a firm or corporation, has been convicted of a violation of any provision of laws pertaining to the business of a motor vehicle dealer or repairer including a motor vehicle recycler, or of any violation involving fraud, larceny or deprivation or misappropriation of property, in the courts of the United States or of any state. [At] No more than thirty days prior to the [time] date of application for [or renewal of] such a license, [each] such applicant [or licensee] shall submit to a state criminal history records check at such applicant's expense pursuant to section 29-17a, based upon such applicant's name and date of birth. Upon renewal, such licensee shall make full disclosure of any such conviction [within the last five years] under the penalty of false statement.

Sec. 4. Section 14-54 of the general statutes is repealed, and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a) Any person who desires to obtain a license for dealing in or repairing motor vehicles in a municipality having a population of no less than twenty thousand shall first obtain and present to the commissioner a certificate of approval of the location for which such license is desired from the board or authority designated by local charter, regulation or ordinance of the town, city or borough wherein the business is located or is proposed to be located, except that in any town or city having a zoning commission, combined planning and zoning commission and a board of appeals, such certificate shall be obtained from the zoning commission. The provisions of this section do not apply to (1) a transfer of ownership to a spouse, child, brother, sister or parent of a licensee, (2) a transfer of ownership to or from a corporation in which a spouse, child, brother, sister or parent of a licensee has a controlling interest, or (3) a change in ownership involving the withdrawal of one or more partners from a partnership.

(b)] Any person who desires to obtain a license for dealing in or repairing motor vehicles [in a municipality with a population of less than twenty thousand] shall first obtain and present to the commissioner a certificate of approval of the location for which such license is desired from the board or authority designated by local charter, regulation or ordinance of the town, city or borough wherein the business is located or is proposed to be located, except that in any town or city having a zoning commission, combined planning and zoning commission and a board of appeals, such certificate shall be approved by the board of appeals. In addition thereto, such certificate shall be approved by the local building official and the local fire marshal [and the chief of police where there is an organized police force or, where there is none, by the commander of the state police barracks situated nearest to such proposed location]. The provisions of this section shall not apply to (1) a transfer of ownership to a spouse, child, brother, sister or parent of a licensee, (2) a transfer of ownership to



or from a corporation in which a spouse, child, brother, sister or parent of a licensee has a controlling interest, or (3) a change in ownership involving the withdrawal of one or more partners from a partnership.

Sec. 5. Section 14-61 of the general statutes as amended by section 212 of public act 15-5 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Any dealer licensed under the provisions of this subpart who in the opinion of the commissioner is qualified and sells or trades a passenger motor vehicle, motorcycle, camper, camp trailer, commercial trailer, service bus, school bus or truck to a transferee who holds a current registration certificate for a passenger motor vehicle, motorcycle, camper, camp trailer, commercial trailer, service bus, school bus or truck registered in this state may issue a sixty-day temporary transfer of such registration to the vehicle transferred. The commissioner shall charge such dealer a fee of ten dollars for each new temporary dealer transfer form furnished for the purposes of this section. No dealer may make such temporary transfer of a registration unless the transferee surrenders the current registration certificate to the dealer indicating the disposition of the vehicle described thereon in the space provided on the reverse side of such certificate and unless the transferee is eighteen years of age or older. The dealer shall, within five days from the issuance of such temporary registration, submit to the commissioner an application together with all necessary documents for a permanent registration for the vehicle transferred. No such temporary registration may be issued if (1) the transferred passenger motor vehicle, motorcycle, camper, camp trailer, commercial trailer, service bus, school bus or truck is used and was not previously registered in this state, unless the inspection requirements of section 14-12 have been met, (2) such motor vehicle is ten or more years old, unless the inspection requirements of section 14-16a have been met, or (3) such motor vehicle has been declared a total loss by an insurance company, unless the inspection requirements of section 14-103a have been met.

(b) The commissioner [may] shall require any dealer who is authorized to issue a temporary transfer of registration in accordance with subsection (a) of this section or a new registration in accordance with subsection (c) of section 14-12 to file electronically each application for a permanent registration [by electronic transmission of an electronic record] if the commissioner determines that the dealer files, on average, [ten] seven or more such applications for permanent registration each month with the Department of Motor Vehicles. [The provisions of this subsection do not preclude any such dealer from filing an application for a permanent registration in person at any branch office of the department] A dealer may make a request to the commissioner for an exemption from electronic filing due to a hardship by communicating, in writing, the nature of such hardship. A hardship may include, but is not limited to, lack of access to a device capable of electronic filing. The commissioner may designate one or more non-profit dealer associations to electronically file on behalf of a dealer an application for permanent registration. Such dealer shall pay a reasonable fee, to be determined by the commissioner, for each permanent registration application that is filed electronically through such dealer association.

(c) If any dealer licensed under this subpart holds a dealer license that is no longer valid or if any such licensed dealer is no longer conducting its licensed business, such dealer shall return to the commissioner, within five business days of such license becoming invalid or the termination of such business, (1) any number plates or other materials supplied by the commissioner to enable such dealer to issue new registrations under subsection (c) of section 14-12 or to complete the temporary transfer of registrations under subsection (a) of this section, and (2) any applications for new registrations or registration transfers that were not acted upon or



completed by such dealer when it was conducting its licensed business. A violation of any provision of this subsection shall be an infraction.

Sec. 6. Subsection (g) of section 14-227b of the general statutes is repealed, and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(g) If such person contacts the department to schedule a hearing, the department shall assign a date, time and place for the hearing, which date shall be prior to the effective date of the suspension, except that, with respect to a person whose operator's license or nonresident operating privilege is suspended in accordance with subdivision (2) of subsection (e) of this section, such hearing shall be scheduled not later than thirty days after such person contacts the department. At the request of such person, the department or the hearing officer and upon a showing of good cause, the commissioner may grant one or more continuances. The hearing shall be limited to a determination of the following issues: (1) Did the police officer have probable cause to arrest the person for operating a motor vehicle while under the influence of intoxicating liquor or any drug or both; (2) was such person placed under arrest; (3) did such person refuse to submit to such test or analysis or did such person submit to such test or analysis, commenced within two hours of the time of operation, and the results of such test or analysis indicated that such person had an elevated blood alcohol content; and (4) was such person operating the motor vehicle. In the hearing, the results of the test or analysis shall be sufficient to indicate the ratio of alcohol in the blood of such person at the time of operation, provided such test was commenced within two hours of the time of operation. The fees of any witness summoned to appear at the hearing shall be the same as provided by the general statutes for witnesses in criminal cases. Notwithstanding the provisions of subsection (a) of section 52-143, any subpoena summoning a police officer as a witness shall be served not less than seventy-two hours prior to the designated time of the hearing.

Sec. 7. Subsection (j) of section 14-227b of the general statutes is repealed, and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(j) Notwithstanding the provisions of subsections (b) to (i), inclusive, of this section, any police officer who obtains the results of a chemical analysis of a blood sample taken from or a urine sample provided by an operator of a motor vehicle involved in an accident who suffered or allegedly suffered physical injury in such accident, or is otherwise deemed by a police officer to require treatment or observation at a hospital, shall notify the Commissioner of Motor Vehicles and submit to the commissioner a written report if such results indicate that such person had an elevated blood alcohol content, and if such person was arrested for violation of section 14-227a in connection with such accident or incident for which treatment or observation was required. The report shall be made on a form approved by the commissioner containing such information as the commissioner prescribes, and shall be subscribed and sworn to under penalty of false statement, as provided in section 53a-157b, by the police officer. The commissioner may, after notice and an opportunity for hearing, which shall be conducted by a hearing officer on behalf of the commissioner in accordance with chapter 54, suspend the motor vehicle operator's license or nonresident operating privilege of such person for the appropriate period of time specified in subsection (i) of this section and require such person to install and maintain an ignition interlock device for the appropriate period of time prescribed in subsection (i) of this section. Each hearing conducted under this subsection shall be limited to a determination of the following issues: (1) Whether the police officer had probable cause to arrest the person for operating a motor vehicle while under the influence of intoxicating liquor or drug or both; (2) whether such person was placed under arrest; (3) whether such person was operating the motor vehicle; (4) whether the results of the analysis of the blood or urine of such person indicate that such person had an elevated blood alcohol content; and (5) in the



event that a blood sample was taken, whether the blood sample was obtained in accordance with conditions for admissibility and competence as evidence as set forth in subsection (k) of section 14-227a. If, after such hearing, the commissioner finds on any one of the said issues in the negative, the commissioner shall not impose a suspension. The fees of any witness summoned to appear at the hearing shall be the same as provided by the general statutes for witnesses in criminal cases, as provided in section 52-260.

Sec. 8. Section 14-227k of the general statutes is repealed, and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) No person whose right to operate a motor vehicle has been restricted pursuant to an order of the court under subsection (b) of section 14-227j or by [the Commissioner of Motor Vehicles pursuant to subsection (i) of section 14-227a or subsection (i) of section 14-111] any provision of law that requires the use of an ignition interlock device shall (1) request or solicit another person to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing such person with an operable motor vehicle, or (2) operate any motor vehicle not equipped with a functioning ignition interlock device or any motor vehicle that a court has ordered such person not to operate.

(b) No person shall tamper with, alter or bypass the operation of an ignition interlock device for the purpose of providing an operable motor vehicle to a person whose right to operate a motor vehicle has been restricted pursuant to an order of the court under subsection (b) of section 14-227j or by [the Commissioner of Motor Vehicles pursuant to subsection (i) of section 14-227a or subsection (i) of section 14-111] a provision of law that requires the use of an ignition interlock device.

(c) (1) Any person who violates any provision of subdivision (1) of subsection (a) or subsection (b) of this section shall be guilty of a class C misdemeanor.

(2) Any person who violates any provision of subdivision (2) of subsection (a) of this section shall be subject to the penalties set forth in subsection (c) of section 14-215.

(d) Each court shall report each conviction under subsection (a) or (b) of this section to the Commissioner of Motor Vehicles, in accordance with the provisions of section 14-141. The commissioner shall suspend the motor vehicle operator's license or nonresident operating privilege of the person reported as convicted for a period of one year.

Sec. 9. Subsection (b) of section 14-275 of the general statutes is repealed, and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(b) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, governing (1) the inspection, registration, operation and maintenance of motor vehicles used by any carrier to transport students, and (2) the licensing of operators of such vehicles. A person who has attained the age of seventy shall be allowed to hold a license endorsement for the purpose of operating a motor vehicle to transport children requiring special education provided such person meets the minimum physical requirements set by the commissioner and agrees to submit to a physical examination at least [twice a year] annually, or more frequently if so determined by a medical examiner certified in accordance with 49 CFR 390.109, or when requested to do so by the superintendent of the school system in which such person intends to operate such vehicle.

Sec. 10. Subsection (a) of section 17a-696 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):



(a) The provisions of this section shall not apply to any person charged with a violation of section 14-227a, 14-227g, 53a-56b or 53a-60d or with a class A, B or C felony or to any person who was twice previously ordered treated under this section, subsection (i) of section 17-155y, section 19a-386 or section 21a-284 of the general statutes revised to 1989, or any combination thereof. The court may waive the ineligibility provisions of this subsection for any person except a person who is charged with a violation of section 14-227a, 14-227g, 53a-56b or 53a-60d and (1) is operating a commercial vehicle, as defined in section 14-1, at the time of the offense or (2) holds a commercial driver's license or a commercial driver's instruction permit at the time of the offense.

Sec. 11. Subsection (9) of section 53a-3 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(9) "Peace officer" means a member of the Division of State Police within the Department of Emergency Services and Public Protection or an organized local police department, a chief inspector or inspector in the Division of Criminal Justice, a state marshal while exercising authority granted under any provision of the general statutes, a judicial marshal in the performance of the duties of a judicial marshal, a conservation officer or special conservation officer, as defined in section 26-5, a motor vehicle inspector acting under the authority of section 14-8 and certified as a police officer by the Police Officer Standards and Training Council pursuant to sections 7-294a to 7-294e, inclusive, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, 29-18a or 29-19, an adult probation officer, an official of the Department of Correction authorized by the Commissioner of Correction to make arrests in a correctional institution or facility, any investigator in the investigations unit of the office of the State Treasurer, any special agent of the federal government authorized to enforce the provisions of Title 21 of the United States Code, or a member of a law enforcement unit of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut created and governed by a memorandum of agreement under section 47-65c who is certified as a police officer by the Police Officer Standards and Training Council pursuant to sections 7-294a to 7-294e, inclusive;

Sec. 12. Subsection (b) of section 53a-217b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(b) The provisions of subsection (a) of this section shall not apply to the otherwise lawful possession of a firearm (1) by a person for use in a program approved by school officials in or on such school property or at such school-sponsored activity, (2) by a person in accordance with an agreement entered into between school officials and such person or such person's employer, (3) by a peace officer, as defined in subdivision (9) of section 53a-3, a motor vehicle inspector acting under the authority of section 14-8 and certified as a police officer by the Police Officer Standards and Training Council pursuant to sections 7-294a to 7-294e, inclusive, while engaged in the performance of such peace officer's or motor vehicle inspector's official duties or (4) by a person while traversing such school property for the purpose of gaining access to public or private lands open to hunting or for other lawful purposes, provided such firearm is not loaded and the entry on such school property is permitted by the local or regional board of education.